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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya

Addendum

Mission to Togo* **

Summary

The Special Rapporteur on the situation of human rights defenders conducted an official follow-up visit to Togo from 7 to 11 October 2013, during which she met with relevant government officials, including the Prime Minister, the national human rights institution and a wide range of human rights defenders.

In the present report, the Special Rapporteur re-assesses the situation of human rights defenders in Togo with regard to her first visit in 2008, and highlights new developments. She considers the legal and institutional framework for the promotion and protection of human rights, with particular attention focused on the exercise of public freedoms and the role of national human rights institution. She then analyses the challenges faced by certain groups of human rights defenders, including women defenders, journalists and media workers, and those defending the rights of lesbian, gay, bisexual and transsexual persons.

The Special Rapporteur concludes the report with recommendations for all relevant stakeholders.

* Late submission.

** The summary of the present report is circulated in all official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission and in French only.

Annex

[English and French only]

Report of the Special Rapporteur on the situation of human rights defenders on her mission to Togo

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I. Introduction

1. Pursuant to Human Rights Council resolutions 7/8 and 16/5, the Special Rapporteur on the situation of human rights defenders conducted an official follow-up visit to Togo from 7 to 11 October 2013, at the invitation of the Government. The purpose of the visit was to re-assess the situation of human rights defenders in Togo in the light of the first visit undertaken in 2008 and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.[1] An examination of the environment in which human rights defenders operate was of particular importance to the assessment, including the legal and administrative framework, institutional policies and mechanisms for the promotion and protection of human rights.

2. During her visit, the Special Rapporteur met with the Prime Minister and senior with officials from the Ministries of Foreign Affairs, Human Rights and The Consolidation of Democracy, Security and Civil Protection, Justice, and Labour. She also met with the President of the Supreme Court. The Special Rapporteur met with the High Authority for Broadcasting and Communications (HAAC), the Vice-President and members and staff of the National Human Rights Commission, and representatives of the Bar Association.

3. The Special Rapporteur also met with the members of the United Nations country team and with members of the diplomatic corps. She had meetings with a wide range of defenders and representatives of civil society, including a group from the regions. The Special Rapporteur thanks all those who took the time to meet with her and share their valuable experiences and insights, and in particular the Office of United Nations High Commissioner for Human Rights (OHCHR) in Togo for helping once again to organize the mission visit and providing the support necessary.

II. Background and methodology

4. The Special Rapporteur conducted a first visit to Togo from 28 July to 4 August 2008, at the invitation of the authorities. She undertook the visit together with the Special Rapporteur on human right defenders of the African Commission on Human and Peoples Rights, Reine Alpini-Gansou – the first joint visit by United Nations and African Union Special Rapporteurs. The mission was deemed a good practice, given that it enhanced the visibility of the mission, brought joint expertise and helped in the follow-up to the issues raised.

5. The Special Rapporteur conducted her follow-up visit from 7 to 11 October 2013. She thanks the Government of Togo for inviting her to visit the country once again. She nevertheless regrets that, on this occasion, the follow-up visit could not be conducted jointly with the Special Rapporteur of the African Commission owing to conflicting agendas.

6. When the Special Rapporteur first visited the country in 2008, the transition and reconciliation process was just commencing. In August 2006, the Government of Togo and all opposition parties signed a global political agreement. In 2008, nationwide consultations were held, reflecting the demand for truth, justice, reparation and reconciliation. She subsequently urged the Government to meet that demand and satisfy the expectations of the people of Togo and the international community. In 2009, the Truth, Justice and

[1] General Assembly resolution 53/144, annex.

Reconciliation Commission was established to investigate past violations and to address impunity.

7. In April 2009, the President's half-brother was arrested in an alleged coup. The presidential elections of 2010 were held in a peaceful manner, despite the allegations of fraud made by the opposition. Although international observers noted that inadequate transparency measures had undermined their confidence in the elections, they did not challenge the outcome.

8. The parliamentary elections held in July 2013 were also conducted peacefully. The ruling party, Union pour la Republique (UNIR) secured an absolute majority in Parliament, winning 62 seats out of 91, while the new opposition coalition, Collectif Sauvons le Togo, took 19 seats.

9. The objective of the follow-up visit was to re-assess several years since the first visit, in the same spirit of cooperation and dialogue, the environment in which human rights defenders operate, also from the viewpoint of the observations and recommendations made by the Special Rapporteur in her first report,[2] and to highlight new relevant developments.

10. To facilitate her assessment, the Special Rapporteur referred to her previous report to identify progress and gaps that have emerged since her first visit. To this end, a table was prepared containing the main findings and recommendations made in the previous report, together with a summary of the inputs provided by the main stakeholders (see annex).

11. The information gathered during follow-up visits may, however, go beyond the issues initially raised in the previous report. The present report therefore provides an account of both aspects, namely, a follow-up assessment and an updated overview of the situation of human rights defenders in Togo.

III. Legal and institutional framework for the promotion and protection of human rights

A. International level

12. The Special Rapporteur commends the authorities for their efforts to strengthen the legal and institutional framework, mainly through their engagement in the universal periodic review process and with United Nations treaty bodies. Some of the most important developments include the introduction of amendments to the Criminal Code, notably a definition of torture, and to the Individuals and Family Code (code des personnes et de la famille) with a view to ensuring compliance with international human rights obligations and standards. The Special Rapporteur believes that there is now a need to expedite the adoption of such amendments and to implement them so that the people of Togo may see real change. She encouraged the Government to ratify the United Nations treaties to which Togo is not yet a party,[3] including the Rome Statute.

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[2] A/HRC/10/12/Add.2.

[3] The Optional Protocol to the International Convention on Economic, Social and Cultural Rights (signed in 2009), the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (signed in 2011), the International Convention for the Protection of All Persons from Enforced Disappearance (signed in 2010), the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

13. The universal periodic review of Togo was held in 2011. The Special Rapporteur is pleased to note that the process at the national level was participatory and inclusive, and that civil society actors and human rights defenders were involved. She encourages the Government to extend a standing invitation to the special procedures of the Human Rights Council.

B. National level

1. Fight against impunity: national reconciliation process

14. In 2008, the Special Rapporteur encouraged the authorities to establish a truth, justice and reconciliation commission, and to include all victims, to provide victims, witnesses and perpetrators with adequate protection, to address violations committed against defenders, and to involve defenders fully in the reconciliation process.[4]

15. The Truth, Justice and Reconciliation Commission was established in 2009; it delivered its final report and recommendations in 2012. The establishment of and work done by the Commission was an important step towards addressing impunity for past violations and paving the way for national reconciliation.

16. During her follow-up visit, the Special Rapporteur was pleased to note that civil society was fully involved in the process, including through the work done by the Commission. Today, victims and society eagerly wait to see the effective implementation of the recommendations made by the Commission, and to forward in the reconciliation process.

2. Judicial system

17. In 2008, the Special Rapporteur underlined the efforts made by the authorities to strengthen the judicial system through the five-year reform programme, which was intended to address major shortcomings, including the lack of independence of the judiciary, access to justice and capacity of magistrates. She expressed her concern at reports of indirect and direct intimidation of magistrates in rural areas and nepotism in the nomination and promotion of magistrates.[5]

18. During the follow-up visit, the Special Rapporteur observed that important challenges remained before the judicial system, including the above-mentioned issues. She took note of the information provided by the authorities about the adoption of the Statute of Magistrates, the law on legal aid, the setting-up of a training centre for justice professionals (centre de formation des professions de justice (CFPJ)), the construction of new prisons, and the creation of new jurisdictions. She welcomes the information, which indicated that a study on access to justice was being conducted.

19. With regard to the independence of the judiciary, the Special Rapporteur noted the creation of the Superior Judicial Council and the General Inspectorate of Judicial Services. She was pleased to learn about initiatives to improve the working conditions of judges at the Supreme Court level, and to strengthen their capacities and access to necessary resources.

20. During her visit, however, the Special Rapporteur noted that the impact of the reform programme implemented between 2006 and 2010 was perceived as insufficient. The independence of the judiciary, access to justice, and impunity for human rights violations

[4] A/HRC/10/12/Add.2, paras. 12, 109 and 111.

[5] Ibid., paras. 41-45.

were raised as some of the main difficulties in the transition and democratization process, as well as for the work of human rights defenders. Testimonies and reports indicated that impunity was widespread, and that legal proceedings against certain perpetrators, in particular State security forces, were rare, and that these actors enjoy almost total immunity for wrongful acts.[6]

21. The Special Rapporteur believes that the strengthening of the judiciary and the fight against impunity should continue to be a priority for the Government and international donors.

3. Freedom of opinion and expression

22. During her visit in 2008, the Special Rapporteur expressed concern at the instances of intimidation and harassment against the media, and the illegitimate restrictions on the freedom of expression of those working on human rights issues.[7] She also warned about the lack of professionalism of certain media and advised journalists to enhance the credibility of their profession by raising the standards of their work.[8]

23. During the follow-up visit, the Special Rapporteur expressed her concern that defamation was an offence in the Criminal Code (art. 58) that carried heavy penalties, including fines. She moreover received information indicating that articles 82 and 95 of the Press and Communications Code (1998) were being used against journalists who reported on corruption cases. According to article 82, those found guilty of broadcasting and publishing any information "at variance with reality" with the aim of "manipulating the conscience or misrepresenting information or acts" or any reproduction by a national media house or broadcasting of "news contrary to reality", whether published or broadcast by foreign media, are punishable by steep fines and even temporary suspension of their publishing or broadcasting licence. Article 95 envisages a large fine for defamation, including against public officials, in connection with articles 90 and 91.

24. The Special Rapporteur reiterates that the criminalization of defamation has a chilling effect on freedom of expression, as it can lead to self-censorship by certain defenders, particularly journalists. It can unduly restrict the exercise of a fundamental right and contribute to the stigmatization of the work of the media and journalists. The criminalization of defamation may also lead to a considerable reduction in the space available to exercise the fundamental right to freedom of expression, which plays a key role in claiming other rights.

25. The Special Rapporteur recommends that defamation be repealed from criminal jurisdiction and be handled in civil jurisdiction, with penalties that are proportionate to the harm done. Such an act would be in accordance with the spirit of article 19 of the International Covenant on Civil and Political Rights and article 6 of the Declaration on Human Rights Defenders.

26. The High Authority for Broadcasting and Communications (HAAC) is an independent institution charged with guaranteeing the protection and freedom of the press. It may grant installation and broadcast licenses to private television channels and radio stations. It elects its own president, vice-president and rapporteurs.

27. After her first visit in 2008, the Special Rapporteur raised concerns about the lack of clarity regarding the guiding procedures of the Authority, and pointed out that, in a number

[6] A/HRC/WG.6/12/TGO/2, para. 47.
[7] A/HRC/10/12/Add.2, paras. 81-87.
[8] Ibid., para. 88.

of instances, it had arbitrarily sanctioned journalists during the exercise of their right to freedom of opinion and expression.[9] The Special Rapporteur felt the need to stress that, although certain Togolese journalists lacked professionalism, she believed that, when reviewing journalists' work, the Authority had to strike a balance between freedom of expression and ethics.[10]

28. Although relations between the Authority and the media have been tense for some time, they have reportedly intensified since 2008. The powers of the Authority were reviewed in 2009 after the National Assembly voted to amend Law No. 2004-021. The amended law provided that the Authority could seize the competent judicial authority and request it to, inter alia, "make final withdrawal of licence with seizure of equipment" and "suspend a newspaper from appearing on the stands for six months, in addition to the withdrawal of its press card" (art. 63). The law granted the Authority the prerogative to "organize hearings for media practitioners who may have committed serious offences" (art. 67).

29. In 2011, the Human Rights Committee expressed its concern at what it considered unjustified restrictions to freedom of expression by HAAC, and recommended that the Government take all measures necessary to ensure its independence and impartiality.[11]

30. In February 2013, the organic law governing the functioning and attributions of HAAC was again amended to extend its regulatory and disciplinary powers (arts. 26, 30-31, 57-58, 60, 62-63, 67), including of its President (art. 64). It appears that main stakeholders, in particular the media, were not consulted about the modifications. The changes have reportedly afforded the Authority disciplinary powers that do not have to be sanctioned by the courts. The Administrative Chamber of the Supreme Court is defined as the only and last court of resort (art. 65) without option to appeal its decisions.

31. Two days after the introduction of the above-mentioned amendments, the President of Togo requested the Constitutional Court to review some of the problematic provisions introduced. In March 2013, the Constitutional Court issued a decision in which it established that certain provisions of the new law on HAAC were unconstitutional, including articles 58, 60 (points 5 and 6), 62 (last point); 63 (points 3 and 4), 64 and 67.

32. The Special Rapporteur considers that the above-mentioned amendments to the law on the functions and powers of HAAC may be a reaction to the deterioration of the environment in which the media operate. Nonetheless, while regulation by a strong and independent body might be at times necessary, the Special Rapporteur believes that self-regulation is an option that should be considered. This would allow the media and journalists themselves to be engaged actively in restoring credibility to their profession.

33. In this context, the Special Rapporteur believes that the role, functions and capacities of the Togolese Media Observatory, established by journalists in 1999, could be strengthened. She was pleased to learn from the Government that HAAC was currently working with the Observatory on a protocol to facilitate co-regulation. In this process, media and journalists should be supported by all stakeholders.

4. Freedom of peaceful assembly

34. In 2008, the Special Rapporteur was informed that the exercise of the right to freedom of peaceful assembly was problematic. According to the Act on Freedom of Association and Assembly of 1901, the exercise of this right is governed by a regime of

[9] Ibid., paras. 57-60.
[10] Ibid., para. 88.
[11] CCPR/C/TGO/CO/4, para. 20.

notification: organizers were required to inform law enforcement authorities of a planned demonstrations, permission for which may refuse if the demonstration is considered a threat to law and public order. The Special Rapporteur reported on certain cases where the exercise of this fundamental freedom had been problematic.[12]

35. The new law adopted in 2011 establishing the conditions for the exercise of the right to freedom of peaceful assembly significantly improved and clarified the framework governing the exercise of this basic freedom. The law applies to peaceful public gatherings, with the exception of private demonstrations and spontaneous gatherings. It establishes a regime for notifying the authorities, and requires that detailed information about the nature of the gathering and the organizers be submitted to relevant authorities in charge of the territorial administration at least five days beforehand.

36. Article 17 of the 2011 law forbids demonstrations in public places between 10 p.m. and 6 a.m. Article 23 envisages the possibility of challenging the decision of relevant administrative authorities if considered to be an abuse of power, in which case the Administrative Chamber of the Supreme Court may be seized (art. 24).

37. The Special Rapporteur welcomes this new development and the fact that the law meets international standards. She nonetheless recalls that any blanket ban or restriction (in this case in relation to time) could be regarded as an "intrinsically disproportionate and discriminatory measure" as defined by the Special Rapporteur on the rights to peaceful assembly and association.[13]

38. In the above connection, the Special Rapporteur draws attention to certain best practices highlighted by the Special Rapporteur on the rights to peaceful assembly and association,[14] including that notification requirements should be subject to a proportionality assessment, not unduly bureaucratic and be required (ideally) only for large meetings or those which may disrupt traffic. If organizers fail to notify authorities, they should not be penalized and spontaneous gatherings should be allowed. In addition, administrative officials receiving notifications should be regularly subject to oversight and benefit from targeted training to ensure that the exercise of this right is not subject to arbitrary restrictions.

39. During her follow-up visit, the Special Rapporteur learned about some instances where the excessive use of force by the police against participants in peaceful assemblies had led to casualties. The tragic incident in Dapaong in April 2013, where two students died following the intervention of the police during a peaceful demonstration in support of a teachers' strike, was brought to her attention. In the light of that incident, she recommends that the police and law enforcement personnel continue to be trained in crowd control and be properly equipped to handle protests.

40. The Special Rapporteur was also informed about violent acts committed by demonstrators, particularly around elections. In this regard, she underlined the importance that defenders remain peaceful at all times when exercising the right to freedom of peaceful assembly. They should assist in monitoring demonstrations, ensuring that those who demonstrate do it peacefully. The violent acts of some demonstrators should not, however, detract from the essentially peaceful nature of demonstrations.[15]

41. The Special Rapporteur also reiterates the recommendations made by the previous mandate holder, that the monitoring of assemblies can provide an impartial and objective

[12] A/HRC/10/12/Add.2, paras. 77-80.
[13] A/HRC/20/27, para. 39; A/HRC/23/39, para. 63.
[14] See A/HRC/20/27, paras. 24-50.
[15] Ibid., para. 25.

account of events, including a factual record of the conduct of both participants and law enforcement officials; the very presence of human rights monitors during demonstrations may deter human rights violations. Human rights defenders should therefore be able to operate freely in the context of freedom of assembly.[16] The Special Rapporteur believes that defenders would benefit from training on monitoring demonstrations, as well as on documenting and reporting on related human rights violations.

5. Freedom of association and labour rights

42. After her visit in 2008, the Special Rapporteur raised the issue of registration certificates and the excessive delays in obtaining them.[17] During her follow-up visit, she found that the situation had improved, although she was informed that there was still no framework to regulate the establishment and functioning of networks or coalitions.

43. The Special Rapporteur believes that the existing legal framework governing the right to associate freely should be reviewed with a view to move towards a modern regime of notification where organizations are not required to register with the authorities in order to be able to operate. The notification procedure should be clearly established by law, and not be burdensome or costly. During her previous visit, the Special Rapporteur was pleased to note that discussions on adopting a law relating to the organization and functioning of civil society organizations were under way.

44. During her follow-up visit, the Special Rapporteur learned about the environment in which trade unions operate, including the exercise of the right to collective bargaining and to strike, an issue that had not been raised during her first visit. The right to freedom of association is enshrined in article 39 of the Constitution; Act 2006-10 of 13 December 2006 on the Labour Code reaffirms this right. Article 9 of the Labour Code prohibits employers from applying pressure in support or against trade union organizations, while articles 256 et subsequent articles recognize the right to strike only if all other avenues for amicable settlement have been exhausted.[18]

45. After having held meetings with relevant authorities and trade unions, the Special Rapporteur was able to conclude that, while progress had been made in recent years with regard to the current legal framework, trade unions and those claiming labour rights face important challenges, including serious restrictions on the right to associate freely and the right to strike by companies in the export processing zone. According to reports available, companies operating in the export processing zone were until recently exempt from certain provisions of the Labour Code regarding the recruitment and individual and collective dismissal of workers, mediation and labour conflict resolution, and the classification of professional categories.[19]

46. The Special Rapporteur welcomes the efforts made to harmonize the regulatory framework for labour in the export processing zone with existing national legislation. In addition, three unions have been created to defend the rights of workers in the free zone.

47. The Special Rapporteur emphasized that the right to claim for the respect and exercise of basic labour rights should be protected. Unions members should be able work in

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[16] A/62/225, para. 91.

[17] A/HRC/10/12/Add.2, paras. 74-76.

[18] A/HRC/WG.6/12/TGO/1, paras. 53-56.

[19] Ibid., para.59. See also the submission by the Commission for the universal periodic review of Togo (available from http://lib.ohchr.org/HRBodies/UPR/Documents/session12/TG/CNDH-CommissionNationaleDroitsHomme-fr.pdf), para. 23.

a conducive environment, particularly in the export processing zone, where they can perform their activities without fear of any form of intimidation or harassment.

6. Ministry for Human Rights and the Consolidation of Democracy

48. In 2008, the Special Rapporteur highlighted the work and role played by the Ministry for Human Rights and the Consolidation of Democracy. She referred to the four-year national plan of action for the promotion and protection of human rights and the civil society unit established within the Ministry as positive aspects. She warned, however, about the Ministry's lack of resources to fulfil its mandate and the absence of awareness-raising activities about the Declaration on Human Rights Defenders.[20]

49. During her follow-up visit, the Special Rapporteur was pleased to learn that civil society was regularly consulted by the Ministry and that the universal periodic review process had brought authorities and civil society together. She was informed by the authorities that, as a result of this experience, relations between the Ministry and civil society would be formalized.

50. The Special Rapporteur was, however, disappointed to discover that the national plan of action had not been implemented owing to lack of funding, although some activities had been carried out with the support of the United Nations Development Programme and OHCHR. She also expressed her concern at the fact that the civil society unit within the Ministry continued to lack the necessary human and financial resources to conduct properly its activities, including the capacity-building of defenders and their own staff. She noted the feedback received from non-governmental organizations indicating that the unit had been "somewhat inactive"; indeed, some of them were not even aware of its existence.

51. The Special Rapporteur learned that the Ministry for Human Rights will be facilitating the work of the High Commissioner for National Reconciliation and Strengthening of National Unity, a role established following the adoption of Decree No. 2013-040/PR on 4 May 2013. The High Commissioner will be responsible for implementing the recommendations of the Truth, Justice and Reconciliation Commission. The Special Rapporteur hopes that the Commission will be able to carry out its work effectively and independently, with the necessary resources.

7. National Human Rights Commission

52. As a result of her visit in 2008, the Special Rapporteur welcomed the mediating role played by the National Human Rights Commission and the fact that it was in the process of establishing a focal point for defenders, something that she considered a best practice to be replicated elsewhere. She warned about the chronic lack of funding of the Commission and the lack of visibility within the State apparatus and parts of civil society.[21]

53. In May 2013, the Commission was reaccredited with A status by the International Coordinating Committee of National Human Rights Institutions, with some recommendations made by the Subcommittee on Accreditation.

54. With regard to funding, the Subcommittee deemed the Commission's budget to be inadequate for effective operation and for it to perform its core functions. Furthermore, the Subcommittee noted that the Commission did not prepare its budget; it is actually prepared by the Ministry of Finance, and disbursed on a monthly basis. The Subcommittee was of

[20] A/HRC/10/12/Add.2, paras. 27-32.

[21] Ibid., paras. 46-56.

the view that such an arrangement could restrict the Commission's capacity to plan and carry out long-term projects.

55. The Subcommittee noted that two posts of Commissioner had been vacant since November 2012. It also noted that, of the 17 members, only the position of Chairperson was full-time and that 25 per cent of employees were seconded, including to senior positions. The Subcommittee recommended that vacant position be filled, that full-time positions be provided for, and that staff be selected through an open, transparent and merit-based system. Such measures would promote stability and enable the institution to discharge its mandate effectively.

56. As the Special Rapporteur has already pointed out, national human rights institutions should have broad and solid mandates and be adequately equipped so that they can be autonomous and independent. In this context, she strongly recommends that national institutions be adequately resourced and be able to propose and manage their own budgets independently.[22]

57. Further to the ratification of the Optional Protocol to the Convention against Torture on 20 July 2010, the Government of Togo designated the Commission to host the National Preventive Mechanism. Subsequently, the Commission's enabling legislation and organizational structure was reviewed, taking into account the Mechanism's requirements and the recommendations of the International Coordinating Committee following the review of the Commission in May 2013. The Special Rapporteur trusts that the draft legislation currently under preparation will take into account the inputs and comments of relevant stakeholders.

58. During the follow-up visit, the Special Rapporteur met with the members of the Commission. She considers that the framework for engagement with defenders is not well established, and that the Commission operates on the basis of bilateral meetings and partnerships. The focal point for defenders has been set up and is operational, which she considers positive. She is, however, concerned at information indicating that defenders are sceptical about the role of the focal point. She was also discouraged to learn that defenders do not always report their issues to the Commission owing to a lack of trust in the institution and, generally, the State apparatus. The Special Rapporteur believes that the focal point should be fully institutionalized within the Commission to make it operational and effective.

59. The Special Rapporteur also expressed her concern at the situation created following the publication by the Commission of a report on allegations of torture and ill-treatment on the premises of the National Security Agency in February 2012. The report was commissioned by the Minister for Justice to investigate the allegations concerning persons involved in the coup d'état in 2009. According to the information received during the follow-up visit, the findings of the report were partially contested by the Government.

60. The Special Rapporteur was informed that, the President of the Commission, Koffi Kounté, fearing for his life, fled left the country several days after the publication of the report and is still abroad. The Commission has been following the implementation of the recommendations made in the report.

61. The Special Rapporteur is very concerned about the above-mentioned events and the current situation of the former head of the Commission. She urges the authorities to take the measures necessary to ensure that Mr. Kounté and his family are safe and that he may return safely, if he wishes to do so.

[22] A/HRC/22/47, paras. 64 and 116.

IV. Situation of human rights defenders

62. In 2008, the Special Rapporteur regretted the fragmentation of civil society and expressed her concern at the stigmatization of its work by some authorities. She referred to a climate of mistrust between authorities and defenders, and recommended that the Government take action to end stigmatization and to enhance the capacity of defenders. She also recommended that defenders end fragmentation among themselves and improve coordination to strengthen their protection, particularly outside the capital. She urged both the Government and the community of defenders to recognize the work of women defenders, and to empower them.[23]

63. During her follow-up visit, the Special Rapporteur noted that the environment in which defenders work in Togo continues to be highly polarized and politicized, as she had observed in 2008. During her visit, she was informed about an initiative taken by groups of defenders to engage actively in political activities during the 2013 parliamentary elections by contributing to the establishment of Collectif Sauvons le Togo (see para. 8 above). In the view of the Special Rapporteur, the initiative has actually undermined the environment in which defenders work and has, unfortunately, strengthened the current trend of authorities and certain media outlets to stigmatize their work by branding them as "political opposition".

64. In this context, the Special Rapporteur called upon defenders and other actors to work in an impartial, independent and objective way. Civil society working on human rights issues should monitor the activities of the State and its obligations, and document and report objectively on violations. She was reassured by the fact that defenders were aware of this role and that some groups were already working to re-establish the credibility of that role. Defenders should be supported in this process.

65. The Special Rapporteur also considered the situation of certain groups of defenders with regard to her first visit in 2008, such as women defenders and those working for the rights of women, journalists and media workers. She also learned about the situation of other groups of defenders, including those working for the rights of lesbian, gay, bisexual and transgender persons.

A. Women human rights defenders and those working for the rights of women

66. In 2008, the Special Rapporteur highlighted the plight of women defenders and noted the particular difficulties of women working in rural areas and the attitude of some local authorities regarding their work. Women defenders were vulnerable to criticism and ostracism in their own families and communities, and lacked the necessary resources and synergies to work effectively. The Special Rapporteur recommended that the Government recognize their role and remove obstacles to their legitimate work.[24] During the follow-up visit, she observed important progress in the environment in which women defenders work, including in relevant legislation, the establishment of the Ministry for the Promotion of Women in 2010 and the adoption of a national policy on gender equality and equity in 2011.

67. The Special Rapporteur also received reports of a significant change in the authorities' perception of the role of women defenders and their attitude towards them. She

[23] A/HRC/10/12/Add.2, paras. 61-66 and 96-119.

[24] Ibid., paras. 67-73.

was pleased to learn that networking among women defenders had improved in recent years, which had helped to make their work more visible and effective. The Special Rapporteur believes these are positive developments that should be acknowledged, and welcomes the Government's commitment to addressing gender inequalities and combating stereotypes.

68. Regarding the environment in which women defenders work, however, the Special Rapporteur believes that the challenges still outweigh the successes, particularly the adverse social attitudes, cultural practices and perception of the work of women defenders and those who work for the rights of women. As the Committee on the Elimination of Discrimination against Women underlined in 2012, patriarchal attitudes and deeply-rooted stereotypes about the role of men and women in family and society still persist.[25] In this context, women defenders are still too often seen as "trouble makers" because of their activism, particularly if they work on sexual and reproductive rights, and also branded as "home-breakers" and "difficult" women.

69. Another endemic problem faced by women defenders and those who work for the rights of women is the scarcity of resources necessary to have a real impact on the ground. The Special Rapporteur remains concerned about the challenging situation of those working in rural areas, given that they operate in remote locations and are often more exposed to pressure from family, the authorities and society without the support of networks.

70. The Special Rapporteur urges the authorities to continue to support and acknowledge the work of women defenders, and to remove the obstacles to their work, including by redressing gender inequalities and combating social stereotypes.

B. Journalists and media workers

71. During her first visit, the Special Rapporteur expressed her concern at the intimidation and harassment of the media and the illegitimate restrictions on freedom of expression of those working on human rights issues (see paragraphs 22 and 23 above). During the follow-up visit, the Special Rapporteur was concerned to see that the environment in which the media operate seems to have worsened and is even more polarized than in 2008. Media outlets and journalists work in a highly politicized environment in which viewpoints are easily associated with political opinions and even parties. Free journalism is very young and not always exercised with enough professionalism or respect for basic ethical and deontological principles. Some newspapers publish photographs of persons arrested or in handcuffs, sometimes accompanied by declarations of guilt given by the police,[26] in violation of the basic principle of the presumption of innocence. It should neither be tolerated by the authorities nor practised by the media.

72. News continues to be reported with a high degree of sensationalism and little apparent capacity to engage in investigative, professional journalism. This makes it all too easy for certain authorities and other stakeholders to brand the media and journalists as politically motivated and to discredit their work. In this connection, the Special Rapporteur welcomes recent discussions on freedom of expression facilitated by OHCHR Togo, leading some journalists to reconsider their role and conditions overall.

73. The Special Rapporteur received testimonies of continued harassment and intimidation of journalists who work on human rights-related issues, report information of

[25] CEDAW/C/TGO/CO/6-7, para. 20.
[26] A/HRC/WG.6/12/TGO/3, para. 39.

cases of corruption of Government officials or publically criticize the Government. Some of them have faced criminal lawsuits for defamation or charges under the Press and Communications Code.

74. In 2010, the Head of State filed defamation suits against three press organizations (*Freedom, L'Independant Express* and the weekly *La Laterne*) for publishing information denouncing corruption within the State apparatus. They were charged with "spreading false news", "defamation" and "attack on honour", offences under the Criminal Code and the Press Code. Later that year, the complaints were withdrawn and the cases were closed.

75. In November 2010, three independent radio stations based in Lomé (X-Solaire, Metropolys and Providence) that generally report on human rights issues were shut down by the Post and Telecommunications Regulatory Authority on the grounds that they did not possess licenses for the frequencies they were assigned to and for "equipment and premises that do not comply with standards in force".

76. The Special Rapporteur is concerned that the above-mentioned actions could unduly restrict the exercise of a fundamental right in a democratic and pluralistic society, and stigmatize the work of the media and journalists, which play a key role in the defence and promotion of human rights. She recalls that free and independent media are an indicator of a healthy and open democracy, where constructive criticism and thorough analysis of public affairs is encouraged. In this connection, she reaffirms the spirit of article 6 of the Declaration on Human Rights Defenders.

C. Defenders working for the rights of lesbian, gay, bisexual and transgender persons

77. The lesbian, gay, bisexual and transgender (LGBT) community is a new group that the Special Rapporteur identified during her follow-up visit. Many of those working on LGBT issues have only organized themselves in recent years, often around HIV-AIDS and other health-related issues. The working environment for defenders is often difficult and hostile owing not only to pressure from society and families but also the existing legal framework.

78. The Special Rapporteur was informed that one important element contributing to this difficult environment is that same-sex relations between consenting adults are, under article 88 of the Criminal Code, a criminal offence punishable by one to three years of imprisonment and a fine.[27] Mindful of the fact that this legal provision has not been used for a number of years, the Special Rapporteur concurs with the Human Rights Committee and other United Nations experts,[28] and believes its mere existence goes against established international human rights standards and may unduly infringe upon, inter alia, the right to privacy, the right to health and the right not be to discriminated against. She also believes that the criminalization of sexual relationships between consenting adults can further stigmatize those advocating for the rights of LGBT persons and make them more vulnerable to pressure and attacks, as experience in other countries in the region has shown.

79. The Special Rapporteur also expresses her concern at the use of certain legal provisions by law enforcement officials without proper investigation of facts in the case of unsubstantiated accusations against defenders and activists. She was informed that some activists have faced accusations of rape and abuse of minors that have not always been properly investigated by the police owing to the prevailing stigma surrounding the work of

[27] CCPR/C/TGO/CO/4, para. 14.

[28] See A/HRC/14/20, paras. 6-16.

these defenders, assumptions about their sexual orientation and deeply-rooted discriminatory attitudes and stereotypes.

80. This group of defenders also faces threats, intimidation and harassment in their own communities in connection with their activities and their own sexual orientation. Such incidents are not always reported for fear of criminal charges and social stigma. The coverage of the issue by certain media seems to have contributed to exposing these defenders to more risks.

81. The Special Rapporteur urges the authorities to do their utmost to ensure that defenders may work in a safe and enabling environment, publically support their work, and consider revising the relevant legal framework.

V. Conclusions and recommendations

A. Conclusions

82. The Special Rapporteur welcomes the progress made in the environment in which defenders work, including the important steps taken to address impunity for past violations and foster national reconciliation, the efforts to strengthen the judiciary, and to support the work of women defenders by redressing gender inequalities and combating social stereotypes. She was also pleased to note that authorities and civil society have found a common space for constructive engagement in human rights issues.

83. Some important challenges observed by the Special Rapporteur during her visit in 2008, however, remain. They include the implementation of the legal framework governing fundamental freedoms, in particular freedom of expression and peaceful assembly; the role and situation of certain key institutions, such as the High Authority for Broadcasting and Communications and the National Human Rights Commission; and the excessive polarization of the environment in which defenders work.

84. The Special Rapporteur appreciates the important role played by the National Human Rights Commission in the transition and consolidation of democracy and for the respect and promotion of human rights in Togo. She was, however, concerned to learn that certain groups of defenders had lost their confidence in the institution.

85. The Special Rapporteur noted that defenders worked in a highly politicized environment. She believes that efforts are required to regain focus and to ensure that work is conducted in an impartial, independent and objective manner.

B. Recommendations

86. The Special Rapporteur recommends that the Government of Togo:

(a) Expedite the ratification of United Nations international treaties to which the State is not yet a party, consider ratifying the Rome Statute, and consider extending a standing invitation to special procedures of the Human Rights Council;

(b) Raise awareness about the Declaration on Human Rights Defenders and publically acknowledge the importance of the role of defenders, particularly women defenders;

(c) Improve on the processes and time frames within which laws are made and amended, and, in this context, ensure that the reform of the Penal Code is expedited and implemented fully;

(d) Ensure that the recommendations of the Truth, Justice and Reconciliation Commission are implemented, and allocate the resources necessary for this task to the High Commissioner for National Reconciliation;

(e) Continue to strengthen the judicial system, in particular the independence of the judiciary, access to justice, access to necessary infrastructure and resources, and the fight against impunity;

(f) Ensure that defamation is only punishable under civil law, and that compensation is proportionate to the harm done;

(g) Consider reviewing the framework governing the right to associate freely with a view to modernize it, including with regard to the establishment of networks and coalitions;

(h) Ensure full independence and effectiveness of the High Authority for Broadcasting and Communications;

(i) Ensure that the National Human Rights Commission is adequately equipped to ensure its own autonomy and independence, and is able to properly fulfil its duties as the national preventive mechanism; in this connection, ensure that the Commission is adequately resourced and able to propose and manage its own budget independently, and that its focal point for defenders is fully institutionalized;

(j) In connection with the above, ensure that the recommendations made by the National Commission contained in its 2012 report on torture are implemented; that those considered responsible for such acts are brought to justice; and that the necessary measures to ensure that Koffi Kounté and his family are safe and he may return safely, if he sowishes, are taken;

(k) Consider allegations and reports of violence, intimidation and harassment on human rights defenders, conduct prompt and impartial investigations accordingly and hold perpetrators accountable;

(l) Continue training the police and security forces in crowd control and human rights standards, including in the proportionate use of force and the role of defenders;

(m) Ensure that defenders can work in a safe and enabling environment, in particular women and those working for the rights of LGBT persons, by removing obstacles to their work and amending relevant legislation;

(n) Ensure that labour rights, including collective bargaining and the right to strike, can be exercised without undue restrictions or intimidations of any kind.

87. **The Special Rapporteur recommends that the High Authority for Broadcasting and Communications:**

(a) Exercise regulatory powers with due diligence and attention to the balance between ethics and the right to freedom of opinion and expression;

(b) Consider strengthening existing self-regulatory mechanisms with a view to involving journalists and the media in the exercise of this function;

(c) Ensure that journalists and the media are supported and trained in basic deontological principles of the profession.

88. **The Special Rapporteur recommends that the National Human Rights Commission:**

(a) Implement the recommendations of the Subcommittee on Accreditation of the International Coordinating Committee of National Human Rights Institutions with regard to strengthening the independence and effectiveness of the institution;

(b) Do its utmost to regain the confidence of human rights defenders and be a strong, independent institution capable of credible and impartial scrutiny of the State's human rights obligations;

(c) Consider fully institutionalizing the focal point for defenders in order to give it prominence within the institution;

(d) Review the framework of engagement with defenders with a view to formalizing a mechanism for effective and participatory interaction with them;

(e) Raise awareness about the existence of a focal point for defenders in the National Human Rights Commission, and ensure that the views of defenders are taken into account;

(f) Ensure responsiveness and accessibility of the institution for all citizens, and engage actively with all groups of human rights defenders, in particular those working on women's rights and against discrimination on the basis of sexual orientation and gender identity.

89. **The Special Rapporteur recommends that human rights defenders:**

(a) Conduct their work professionally in order to hold the State to account, and maintain dialogue with the authorities to foster the protection and promotion of human rights;

(b) Strengthen existing networks and ensure that they function effectively, in both urban and rural areas;

(c) In the case of journalists and media professionals working on human rights issues, carry out their work by observing professional ethics and deontological principles;

(d) Ensure the dissemination of information about the Declaration on Human Rights Defenders and the role of defenders at the domestic level;

(e) Ensure that demonstrations are held peacefully and are properly monitored, and that violations are documented and reported.

90. **The Special Rapporteur recommends that the United Nations and the international community:**

(a) Continue to support the transition and democratization process in Togo, in particular the strengthening of the justice sector;

(b) Continue to support the consolidation of civil society and human rights defenders in the country, in particular by building their capacity to carry out their work more effectively.

Annex

Status of implementation of recommendations, and observations

Recommendations made by the Special Rapporteur following her mission to Togo in 2008 (A/HRC/10/12/Add. 2) and status	Situation and developments as at 2013 as reported by the Government and non-governmental organizations
A. Context	
The Truth and Reconciliation Commission should not exclude any victims of political violence; the Government should ensure the security of witnesses, victims and alleged perpetrators (para. 12 (c) and (d))	**Government**: National consultations registered more than 18,000 requests; audiences were organized during which all stakeholders, including defenders, were interviewed. Report of April 2012 on the consultations led to establishment of post of High Commissioner for National Reconciliation and Strengthening National Unity.
The Commission must address seriously and thoroughly all violations committed against defenders (para. 109)	**NGOs**: Intention to protect witnesses was present but was undermined by lack of resources. Still awaiting implementation of recommendations.
Recommended that the Government involve human rights defenders in reconciliation process (para. 111)	**NGOs**: Most respondents felt that they had been fully involved in reconciliation process.
Recommended that the Government fully involve human rights defenders in monitoring of the 2010 presidential elections (para. 112)	**Government**: Elections were transparent and peaceful. All stakeholders, including human rights defenders, were involved, and received training.
	NGOs: Most respondents felt that they had been fully involved in monitoring of elections, thereby allowing them to be held without major incidents.
B. Institutional framework	
1. Ministry for Human Rights and the Consolidation of Democracy	
Four-year national plan of action and programmes for promotion and protection of human rights under the Ministry for Human Rights and the Consolidation of Democracy reportedly had NGOs as prime partners in advancing plan (para. 29)	**Government**: Finances not obtained for implementation, although authorities conducted some actions thanks to external support. Authorities currently preparing plan for implementation of universal periodic review recommendations for submission to development partners.
	NGOs: Some claim plan was consolidated only recently, others argue that civil society is always consulted in such situations. Some respondents believe that protection should not come under a political institution.
Civil society unit established within the Ministry was mandated to design a consultation framework with representatives of civil society, to provide legal	**Government**: Through the universal periodic review process, collaboration with civil society was significantly strengthened. Authorities are

Recommendations made by the Special Rapporteur following her mission to Togo in 2008 (A/HRC/10/12/Add. 2) and status	Situation and developments as at 2013 as reported by the Government and non-governmental organizations
assistance to defenders and to seek, whenever possible, the involvement of defenders in activities for the promotion of human rights. To this end, periodic meetings were held with defenders to assess partnership (para. 30)	now formalizing relations. **NGOs**: General agreement that unit has been somewhat inactive and not very effective. Some respondents not aware that unit existed.
The above-mentioned unit had not undertaken activities to raise awareness about Declaration on Human Rights Defenders (para. 30)	**NGOs**: Information confirmed by some respondents.
Interministerial committee was tasked with drafting reports for treaty bodies and universal periodic review. Committee acknowledged a reporting backlog owing to lack of training of its members (para. 31)	**NGOs**: Respondents submitted information for universal periodic review of Togo. Some state that current backlog is organizational rather than financial.
Lack of resources of prevent it from fulfilling its mandate (para. 32)	**NGOs**: A question of priorities for the Government, and restrictive funding. Some believe that European Union and United Nations could contribute.
Recommended that the Government strengthen capacity and visibility of the Ministry and of the National Human Rights Commission (para. 102)	**NGOs**: Little information provided by respondents, although one was aware that recommendation was made during universal periodic review; another referred to forced exile of the president of the Commission.
Recommended that the Government support financially the four-year national plan of action and programmes of promotion and protection of human rights elaborated by the Ministry (para. 103)	**NGOs**: Respondents either had no information or stated that recommendation had not been implemented.
2. Law enforcement authorities	
No specific training for security forces on work of human rights defenders and the Declaration on Human Rights Defenders (para. 33)	**NGOs**: A number of training initiatives for army (rather than for the police) had been organized, although not specifically on defenders.
No specific training for Togolese soldiers serving in United Nations peacekeeping missions on work of human rights defenders and the Declaration on Human Rights Defenders (para. 34)	**NGOs**: Little or no relevant information available.
Recommended that the Government sensitize the police, gendarmerie and military officers and judicial and prosecution officials on role and activities of human rights defenders and National Human Rights Commission (para. 104)	**NGOs**: Disagreement on whether recommendation had been implemented.
3. Judicial system	
Five-year reform programme of judicial system (2006-2011) to address shortcomings, including lack	**Government**: Process of modernizing the judicial system is near completion. A study on access to

Recommendations made by the Special Rapporteur following her mission to Togo in 2008 (A/HRC/10/12/Add. 2) and status	Situation and developments as at 2013 as reported by the Government and non-governmental organizations
of independence of judiciary, access to justice by citizens and capacity of magistrates (paras. 41-42)	justice is also under way. **NGOs**: Some progress made. All agreed that lack of independence of judiciary still a major problem.
Reports of direct and indirect intimidation of magistrates in rural areas and nepotism in nomination and promotion of magistrates (para. 44)	**Government**: These issues are being addressed through creation of Superior Judicial Council and General Inspectorate of Judicial Services. **NGOs**: Respondents did not provide much information, although some claimed that posting to a rural zone is possibly a form of punishment for magistrates.
Magistrates and judicial officers lack training on the Declaration on Human Rights Defenders (para. 45)	**Government**: Centre de formation des professions de justice (CFPJ) takes Declaration into account in courses. **NGOs**: No information available, or lack of precise information during training. Some mentioned CFPJ training.
4. High Authority for Broadcasting and Communications	
Lack of clarity regarding the guiding procedure of Authority (HAAC); cases of arbitrary sanctions of journalists exercising the right to freedom of opinion and expression (para. 60)	**NGOs**: Information confirmed. Some referred to unreliable journalism as possible reason behind decisions of HAAC.
Recommended that the Government ensure that HAAC lays out the criteria under which activities of organizations are assessed and that its actions are fair and transparent (para. 106)	**Government**: Some modifications made to improve operations of HAAC. **NGOs**: Only some respondents confirmed modifications mentioned by the Government.
Recommended that HAAC, the Minister for Communication and other specialized institutions engage in capacity-building (in particular, training on journalist ethics) and confidence-building activities for journalists (para. 107)	**Government**: Training sessions are periodically held for journalists on ethics and professionalism. **NGOs**: Some respondents confirmed Government reply, while others stated that training was only held during the electoral period.
C. National Human Rights Commission	
During meetings with NGOs, the National Human Rights Commission noted that members of civil society had requested the Commission to design a consultative framework, undertake joint activities with NGOs in campaigning, sensitizing and training (para. 51)	**Government**: Consultations are periodically held between civil society and the Commission. **NGOs**: Disagreement over whether consultations had been held.
Commission has also acted as mediator in conflicts between defenders and law enforcement authorities, as well as the High Authority for Broadcasting and	**Government**: After the death of President Eyadema, the Commission travelled around the

Recommendations made by the Special Rapporteur following her mission to Togo in 2008 (A/HRC/10/12/Add. 2) and status	Situation and developments as at 2013 as reported by the Government and non-governmental organizations
Communications (para. 52)	country to investigate allegations of violations. **NGOs**: Some confirmed information given by Government to a certain extent, stating also that a climate of distrust still existed and that there was no law on defenders.
Discussions within the Commission on establishing a focal point for human rights defenders under way (para. 53)	**NGOs**: No information available, or scepticism expressed about the role of the focal point.
A bill on the inclusion of references to the Declaration on Human Rights Defenders in national legislation being prepared by the Commission (para. 54)	**NGOs**: No information provided.
Commission suffers from chronic lack of funding (para. 55)	**NGOs**: Confirmed by all. Reports indicated that situation had worsened since the Kounté affair.
Commission lacks visibility within State apparatus and some parts of civil society. Widespread misconception of the role of the Commission by the State authorities and civil society noted (para. 56)	**NGOs**: Some reported that lack of visibility was due to lack of financing, but also possibly to lack of direction.
Recommended that the Government support bill calling on the inclusion of references to the Declaration on Human Rights Defenders in national legislation prepared by the Commission. The Ministry for Human Rights and the Consolidation of Democracy and the Parliamentary Human Rights Commission must support the law before the Parliament (para, 105)	**NGOs**: No relevant information provided, possible because bill had not been discussed in Parliament.
D. Civil society	
Civil society is largely fragmented and lacks coordination when advocating respect for human rights (para. 64)	**NGOs**: Some indicate that situation was mainly due to political divisions, although this was possibly changing. Others believed that the situation was the same, despite efforts to overcome divisions.
Defenders stigmatized as belonging to political opposition by some authorities, tribal leaders and segments of the population. This misperception is more acute in the capital, where it generates a climate of mistrust between authorities and defenders. Local authorities must be sensitized on the work of defenders (para. 65)	**NGOs**: Observation was confirmed by some respondents, who believed that efforts to sensitize need to be increased. Some referred to over-politicization of civil society organisations, which had worsened the situation.
Recommended that the Government take concrete steps to give legitimacy to human rights defenders, in the capital and in the regions, by dispelling stigmatization of accusations of affiliation to	**NGOs**: Some indicated that no steps had been taken in this regard, and that new legislation should be drafted. Others thought that civil

Recommendations made by the Special Rapporteur following her mission to Togo in 2008 (A/HRC/10/12/Add. 2) and status	Situation and developments as at 2013 as reported by the Government and non-governmental organizations
political parties (para. 96)	society organizations should clarify their position.
Recommended that the Government continue to ensure that human rights defenders operate within a conducive environment (para. 97)	**Government**: Law on public demonstrations was adopted in 2011 in order to facilitate freedom of association. Discussions were under way on a law relating to the organization and functioning of civil society organizations. **NGOs**: Disagreed with the Government. Some stated that the environment was already conducive, while others referred to threats and violations.
Recommended that the Government enhance the capacity of human rights defenders (para. 98)	**Government**: Human rights defenders' organizations were periodically trained on freedom of expression, the role of civil society and the recommendations made by the Truth, Justice and Reconciliation Commission. **NGOs**: Information sessions should be held, which OHCHR Togo reportedly already does.
Recommended that human rights defenders end the fragmentation of their community and find a strong, single voice (para. 114)	**NGOs**: Agreed that more forums and round table discussions should be organized.
Recommended that human rights defenders improve coordinating networks aimed at strengthening the protection of defenders, particularly those outside the capital (para. 115)	**NGOs**: Defenders in rural areas should form a network, which existing networks would be ready to support. A project funded by the European Union to this end has existed since 2012.
Recommended that human rights defenders recognize the work of women human rights defenders, and empower them (para. 116)	**NGOs**: Technical and financial support for women's organizations should be strengthened. There were indications that women's organizations were being empowered.
Recommended that human rights defenders expand capacity among defenders in the capital and in the regions to make full use of existing national, regional and international human rights mechanisms and institutions (para. 117)	**NGOs**: Lack of finance, capacity and training were the main problems. Events had been organized to address the situation.
E. Women defenders	
Women defenders are vulnerable to criticism and ostracism among their own families and communities. They further encounter discrimination within organizations or trade unions they operate. (para. 70)	**NGOs**: Organizations are becoming sensitized and some believe the situation is improving, though others believe it remains the same.
The Special Rapporteur notes that it is increasingly difficult for women defenders to operate safely in rural areas. Local authorities seem to do little to	**NGOs**: Specific examples of violations are provided. One respondent notes that women in rural areas are cooperating and sometimes engage

Recommendations made by the Special Rapporteur following her mission to Togo in 2008 (A/HRC/10/12/Add. 2) and status	Situation and developments as at 2013 as reported by the Government and non-governmental organizations
investigate or prosecute the authors of threats and other acts of intimidation (para. 71)	in advocacy.
Other difficulties reported include scarcity of funding and resources for centres run by women defenders (para. 72)	**NGOs**: Scarcity of funding and resources is common throughout the country, not specific to centres run by women defenders.
Recommended that the Government recognize the legitimate work of women human rights defenders, acknowledge it as human rights work, ensure the removal of all obstacles that impede their work, and take proactive measures to support such work (para. 101)	**NGOs**: One respondent indicated that the Government solicits advice from women defenders more than others. Another reported that the Government had not taken any action on this recommendation.
1. Right to freedom of association	
Systematic delays by the Ministry of Territorial Administration in delivering registration certificates to NGOs. Without this certificate, NGOs have no access to funding, and cannot file a complaint before a court or operate outside the capital (para. 74)	**NGOs**: Four respondents reported persisting difficulties, while others indicated that the situation had improved somewhat.
Recommended that the Government speed up the delivery of registration certificate to NGOs, thereby facilitating their activities (para. 99)	**NGOs**: Some reported that the process was still slow, others that it had improved somewhat.
2. Right to freedom of peaceful assembly	
In accordance with the 1901 Act on Freedom of Association and Assembly, the right to peaceful assembly is governed by a regime of notification, which may be refused if the demonstration is considered a threat to law and public order (para. 77)	**NGOs**: Law no. 2011-010 was referred to as a positive development, although its application was problematic. Permission had been denied to hold assemblies, and some demonstrations had been met with police violence.
In Kpalimé, defenders raised concerns about the difficulty to organize demonstrations or public events; they reportedly need to seek the permission of the gendarmerie (para. 79)	**NGOs**: General agreement that, even under the new law, this remains a problem.
3. Right to freedom of opinion and expression	
Cases of assault and threats against journalists and illegitimate restrictions to the exercise of their right to freedom of opinion and expression by HAAC were reported during the visit in 2008 (paras. 82-87)	**NGOs**: According to most respondents, the situation had not improved. Some reported the closure of radio stations, cases of intimidation of journalists, violent repression of protests and the prerogatives of HAAC. One reported that the situation had greatly improved; the problem was that now journalists did not respect the parameters of professional conduct in their field.
Lack of professionalism of a number of Togolese journalists, who often cover news in a	**NGOs**: Some reported that the situation remains the same, and called for training for journalists

Recommendations made by the Special Rapporteur following her mission to Togo in 2008 (A/HRC/10/12/Add. 2) and status	Situation and developments as at 2013 as reported by the Government and non-governmental organizations
sensationalistic way; the Special Rapporteur therefore advised journalists to enhance the credibility of their profession by conducting investigative journalism (para. 88)	and media workers.
4. Impunity	
The question of impunity for violations committed against human rights defenders is a major concern (para. 89)	**NGOs**: The issue remains a major concern. Many respondents saw impunity as the rule, and justice as the exception.
Recommended that the Government make the fight against impunity for violations against human rights defenders a priority; the Truth, Justice and Reconciliation Commission must address seriously and thoroughly all violations committed against human rights defenders (para. 109)	**Government**: The implementation of the recommendations made by the Commission should make justice independent and effective, and a sensitization programme with regard to human rights will be implemented. **NGOs**: According to some respondents, even though the Commission had finished its mandate, the authors of violations were still free.
F. Other recommendations	
Recommended that the Government translate the Declaration on Human Rights Defenders in Kabye, Ewe and other main local languages (para. 100)	**Government**: Intends to do this. **NGOs**: Declaration has not yet been translated. Some think this is not pertinent, as many people do not read in these languages, or at all, and those who do also read English or French.
Recommended that all stakeholders carry out countrywide civic education to enhance the appreciation of the activities of human rights defenders (para. 118)	**NGOs**: Many stated that this had not been done.
Recommended that all stakeholders disseminate the Declaration on Human Rights Defenders and the Universal Declaration of Human Rights on the occasion of their tenth and sixtieth anniversaries respectively (para. 119)	**Government**: A forum was organised in which more than 50 organizations of human rights defenders had participated. Authorities intend to intensify these actions. **NGOs**: A forum was held on 10 December 2012 at which the proposal was discussed, although no further information had been provided.